

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1588 OF 2005

Mrs. Kavita Surendra Jalan ...Petitioner

Versus

Vasant Bhurmal Agarwal & Anr ...Respondents

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Mr. Uday Warunjikar, counsel for the Petitioner

Mr. Y.S. Shinde, A.P.P. for State

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CORAM: A. M. KHANWILKAR, J.

DATED: 12TH DECEMBER, 2005

P.C. :-

1. Heard the counsel for the Petitioner.
2. I see no reason to depart from the conclusion arrived at by the trial Court as noted in para 3 of the impugned judgment. The Counsel for the petitioner however submits that no presumption can be drawn against the petitioner because the account pertains to minor which was incidentally operated by the Petitioner as a guardian. The fact remains that the petitioner is operating the said account. The Petitioner is signatory to the cheque in question

which is not disputed. If it is so, the criminal action has to be proceeded against the Petitioner.

3. To get over this position, the counsel, would then contend that there is no legally enforceable liability against the petitioner for the simple reason that there are several other disputes pending between the parties. However, those matters will have to be urged at the trial that there is no legally enforceable liability, so as to rebut the legal presumption arising against the Petitioner. Those plea will have to be considered at the time of trial and cannot be ground for quashing of the process. Hence, no reason to interfere. Petition is dismissed.
